

## REMARKS

### Amendments

Reconsideration of this application is respectfully requested in the light of the amendments and remarks.

Claims 1-9, 20-33 were pending at last examination.

No additional claims have been added.

Claims 20-22 have been canceled.

Claims 1-3, 5-6, 23, 26 and 30 have been amended. It is respectfully submitted that no new matter has been added and entry into the record and examination on the merits is respectfully requested.

### Claim Rejections under 35 USC §112

The examiner has rejected claims 1-9 and 20-33 under 35 USC §112 as being indefinite, writing “...*With respect to claim 1, applicant fails to define "layer 3 virtual private network", ...*” It is respectfully submitted that “*layer 3 virtual private network*” is a notorious term in the networking arts and needs no further definition. For example, the Internet Engineering Task Force (IETF), which is a leading authority in the networking arts, has an entire working group devoted to Layer 3 Virtual Private Networks (l3vpn). A copy of the charter of the Layer 3 Virtual Private Networks Working Group is provided with an accompanying IDS form. The charter of the l3vpn working group is **not** admitted prior art, especially the copy provided which was published in September 2005, it is merely provided as evidence that Layer 3 Virtual

Private Network is a notorious term in the relevant art and the term cannot therefore be indefinite for failure to further define it.

Another important publication of the IETF which provides evidence that Level 3 VPNs are old and notorious and also provides a relevant background explanation of Level 3 VPNs is RFC2547 entitled BGP/MPLS VPNs, published (at least) in March 1999. A copy of this background document (RFC 2547) is also provided together with the accompanying IDS form.

Claims 5-9 have been rejected for insufficient antecedent basis. Claim 1 has been amended to provide insufficient antecedent basis.

Similarly, claims 6 and 9 have been amended to overcome the informality as to antecedent basis for “*single EGP(exterior gateway protocol) table*”.

The examiner has further written “... *The applicant is advised to spell the acronyms such as VPN, EGP etc. in the claims ...*” The claims have been extensively amended to recite after the first usage of each acronym the etymological original language, for example “*VPN(virtual private network)*”.

Similarly, RD and EGP have been expanded.

Claim 22 has been rejected as indefinite. Claim 22 has been canceled.

#### Claim Rejections under 35 USC §101

The examiner has written “ ... *Claims 1-9, 20-33 are rejected under 35 USC 101 because the invention is directed to non-statutory subject matter. Claims 1-9 are directed to a computer-implemented method, a code or computer program, which is not enclosed*

*within a tangible medium, as such the claim is not tangible embodied and is therefore non-statutory”.*

That interpretation of 35 USC 101 is respectfully traversed. 35 USC 101 recites “...*Whoever invents or discovers any new and useful **process**, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title. ...*” (emphasis added). Claim 1 recites, in part... “*A method comprising ...*”. It is respectfully submitted that “*A method*” is a process and that, by their very nature, processes are never tangibly embodied *per se* (but are nonetheless patentable). Thus, it is respectfully submitted that Claim 1 is patentable under 35 USC 101.

Moreover, it is respectfully submitted that claims 2-9 are patentable under 35 USC 101 for essentially the same reasons as claim 1.

In regards to claims 20-33, the examiner has further written “... *Claims 20-33 are not limited to tangible embodiments ...*” The examiner goes on to recite from the specification, “... *electrical, optical, acoustical, or other form of propagated signals (e.g., carrier waves, infrared signals, digital signals, etc.).. ...*” Claims 20-22 have been canceled. It is respectfully submitted that **all** the claimed media of claims 23-33 are tangible, since electrical signals are indeed tangible *when they are in the form of carrier waves etc.* according to the teachings of physics. In particular, the term *digital signals* is to be interpreted within its context of ***propagated signals*** and it is well-known in physics that tangible phenomena, (for example electromagnetic fields), are required for the *propagation* of signals. Indeed, the human sense of touch (which is an ultimate touchstone of tangibility) operates through changing electromagnetic fields in nerve

structures. Thus, **propagated** signals, as distinguished from stationary data, are unconditionally tangible and the claims are allowable under 35 USC §101.

#### Claim Rejections of Independent Claims under 35 USC §102

The Office Action has rejected claims 1-9 and 20-33 under 35 USC §102 as being anticipated by US Patent number 6,339,595 issued to Rekhtar et al. (herein “Rekhtar”).

Claims 20-22 have been canceled.

Claims 1-3, 5-6, 23, 26 and 30 have been amended.

A general comment can usefully be made that Rekhtar teaches VPNs using multiple pathways as referenced in the Background to the Invention section of the present application. More particularly Rekhtar teaches techniques for the management of routing tables in connection with the particular issues of multiple VPNs co-present in a network element such as a provider edge router.

Claim 1. It is respectfully submitted that the Office Action does not show that Rekhtar discloses, teaches or renders obvious all the limitations of claim 1, as amended.

Claim 1, has been amended to recite “... *a first context for the first customer ...*” in place of the previously recited “*a first set of information for the first customer*”.

The qualification recited, in claim 1 of the term “**context**” as meaning “...*wherein the contexts enable isolation of traffic processed and provide the ability to give access to a given customer’s information while restricting access to other information in the single network element...*” is expressly supported by the specification as originally filed (Para

[0026]). Thus, the use of the term “context” is compatible with the previously claimed “set of information”.

As to the term “*a first context for the first customer*”, Rektar merely discloses routing tables (FIBs etc) that are maintained on behalf of Internet users generally as contrasted with being maintained for a *particular* customer.

Thus, it is respectfully submitted that, for this reason, claim 1 is patentable under 35 USC §102 over Rektar.

Moreover, claim 1 has been further narrowed to recite “*non-VPN access to a backbone*”. Support for this additional limitation is found *inter alia* in the specification, last sentence of Para[0023] “*... the non-VPN customer equipment 106 gain access to the backbone 111 via the network element 105 ...*”. Thus, support is found in the application as originally filed and no new matter has been added.

Furthermore, even if one assumes, purely for the sake of argument, that Rektar discloses contexts pertaining to VPN customers, he teaches away from the concept of maintaining set(s) of information for **non-VPN** using customers (Rektar Col.9, lines 40-43 “*...And an edge router such as PE1 or PE2 needs to maintain, in addition to a general FIB, a separate FIB **only** for each VPN to which it is connected directly.*” (emphasis added)). Thus, it is respectfully submitted that for this additional reason, claim 1 is patentable under 35 USC §102 over Rektar.

Claims 2-5. As to claims 2-5, it is respectfully submitted that claims 2-5 are dependent, directly or indirectly, upon claim 1 therefore it is respectfully submitted that claims 2-5 are allowable for at least the same reasons as claim 1.

Claims 2-5 also all have limitations as to contexts for non-VPN using customers and hence, it is respectfully submitted that, claims 2-5 are additionally patentable under 35 USC §102 over Rektar for this additional reason.

Claim 6. Claim 6 stands rejected under 35 USC §102 as being anticipated by Rektar. It is respectfully submitted that the Office Action does not show that Rektar discloses, teaches or renders obvious all the limitations of claim 6. For example, claim 6 recites, in part, "*... maintaining a single EGP (exterior gateway protocol) table for the first and second layer 3 VPNs....* ".

The Examiner has written "*... As per claim 6, Rektar discloses ... maintaining a single EGP table for the first and second layer 3 VPNs ([Rektar] col 11 L13-18) ...* ". But, Rektar is silent as to EGP tables. Rektar does disclose, at the referenced place the maintenance of FIB (Forward Information Base) in connection with EGP, but it is respectfully submitted that FIBs and EGP tables are discrete in the art and one is not obvious over the other. EGP tables are notorious in the relevant arts, for example see RFC 911 entitled EGP GATEWAY UNDER BERKELEY UNIX 4.2" (submitted under IDS in an accompanying paper) for an explanation of the nature of EGP tables. Thus, it is respectfully submitted that claim 6 is patentable under 35 USC §102 over Rektar.

Claims 7, 23-33. Claims 7, 23-33 each have limitations as to EGP tables and therefore it is respectfully submitted that claims 7, 23-33 are patentable under 35 USC §102 over Rektar for substantially the same reason as claim 6.

### SUMMARY

Reconsideration of this application is respectfully requested.

Claims 1-9, 23-33 remain in the application.

Claims 1-3, 5-7, 23-24, 26 and 30-31 have been amended.

Claims 20-22 have been canceled. No Claims have currently been added.

It is respectfully submitted that all rejections have been overcome and that all pending claims are in condition for allowance. Reconsideration of the application and allowance of pending claims 1-9, 23-33 is respectfully requested.

### *Invitation for a telephone interview*

The Examiner is cordially invited to call the undersigned at 408-720-8300 if it is felt this might help progress prosecution of this case to resolution.

### *Charge our Deposit Account*

Please charge any shortages and credit any overages to Deposit Account No. 02-2666.

Respectfully submitted,

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